

judicial, quasi-judicial or quasi-legislative proceeding to which the individual is a party or participant;

(4) The correction or amendment would violate a duly enacted statute or promulgated regulation; or

(5) The individual unreasonably has failed to comply with the procedural requirements of these rules.

(f) If a request is partially granted and partially denied, the PA Officer shall follow the appropriate procedures of this section as to the records within the grant and the records within the denial.

**§ 1101.14 Appeal of agency decision not to correct or amend a record.**

(a) An appeal of the initial refusal to amend a record under § 1101.13 may be requested by the individual who submitted the request. The appeal must be requested in writing, and state that the appeal is being made under the Privacy Act of 1974, it should identify the denial that is being appealed and the records that were withheld, it should include the requester's name and address and telephone number (optional), and it should be signed by the individual making the request. It should be received by the Section within sixty (60) calendar days of the date the individual is informed of the PA Officer's refusal to amend a record in whole or in part. The request should be addressed and sent via certified mail to the Commissioner, United States Section, International Boundary and Water Commission, 4171 North Mesa, suite C-310, El Paso, TX 79902-1422. The processing of appeals will be facilitated if the words "PRIVACY APPEAL" appear in capital letters on both the envelope and the top of the appeal papers. An appeal not addressed and marked as provided herein will be marked by Section personnel when it is so identified and will be forwarded immediately to the Commissioner.

(b) The time for decision on the appeal begins on the date the appeal is received by the Commissioner. The appeal should include any documentation, information or statements advanced for the amendment of the record.

(c) There shall be a written record of the reason for the final determination.

The final determination will be made not later than thirty (30) days (excluding Saturdays, Sundays and holidays) from the date the Commissioner receives the appeal; unless, for good cause shown, the Commissioner extends such determination beyond the thirty (30) day period.

(d) When the final determination is that the record should be amended in accordance with the individual's request, the Commissioner shall direct the office responsible for the record to comply. The office responsible for the record shall:

(1) Amend the record as directed;

(2) If a distribution of the record has been made, advise all previous recipients of the record of the amendment and its substance;

(3) So advise the individual in writing.

(e) When the final decision is that the request of the individual to amend the record is refused, the Commissioner shall advise the individual:

(1) Of the refusal and the reasons for it;

(2) Of his or her right to file a concise statement of the reasons for disagreeing with the decision of the Section;

(3) Of the procedures for filing the statement of disagreement;

(4) That the statement which is filed will be made available to anyone to whom the record is subsequently disclosed together with, at the discretion of the Section, a brief statement by the Section summarizing its reasons for refusing to amend the record;

(5) That prior recipients of the disputed record will be provided a copy of any statement of dispute to the extent that an accounting of disclosures was maintained; and

(6) Of his or her right to seek judicial review of the Section's refusal to amend the record.

(f) When the final determination is to refuse to amend a record and the individual has filed a statement under paragraph (e)(2) of this section, the Section will clearly annotate the record so that the fact that the record is disputed is apparent to anyone who may subsequently have access to use or disclose it. When information that is the subject of a statement of dispute

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filed by an individual is subsequently disclosed, the Section will note that the information is disputed and provide a copy of the individual's statement. The Section may also include a brief summary of the reasons for not making a correction when disclosing disputed information. Such statements will normally be limited to the reasons given to the individual for not amending the record. Copies of the Section's statement shall be treated as part of the individual's record for granting access; however, it will not be subject to amendment by the individual under these rules.

(g) An appeal will be decided on the basis of the individual's appeal papers and the record submitted by the PA officer. No personal appearance or hearings on appeals will be allowed.

### § 1101.15 Judicial review.

After having exhausted all administrative remedies set forth in § 1101.7(g)(3) or § 1101.14, a requester may bring a civil action against the Section, in a United States District Court of proper venue, within two years of the final administrative decision which the requester seeks to challenge.

### § 1101.16 Criminal penalties.

(a) Under the provisions of the Act, it is a Federal crime for any person to knowingly and willfully request or obtain information from a Federal agency, including this Section, by false pretenses.

(b) It is also a crime for any officer or employee of the Section to knowingly and willfully:

(1) Make an unauthorized disclosure; or

(2) Fail to publish public notice of a system of records as required by 5 U.S.C. 552a(e)(4).

### § 1101.17 Annual report to Congress.

(a) On or before August 1 of each calendar year the Commissioner shall submit a report covering the preceding calendar year to the Speaker of the House of Representatives and the President of the Senate for referral to the appropriate committees of the Congress. The report shall include:

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(1) The U.S. Section's point of contact responsible for implementing the Privacy Act of 1974;

(2) The number of active systems, new systems published, systems deleted, systems automated, either in whole or part, number of existing systems for which new routine uses were established, number of existing systems for which new exemptions were claimed, number of existing systems from which exemptions were deleted, and number of public comments received by the agency of publication of rules or notices;

(3) Total number of requests for access, number of requests wholly or partially granted, number of requests totally denied, number of requests for which no record was found, number of appeals of denials of access, number of appeals in which denial was upheld, number of appeals in which denial was overturned either in whole or part, number of requests to amend records in system, number of amendment requests wholly or partially granted, number of amendment requests totally denied, number of appeals of denials of amendment requests, number of appeals in which denial was upheld, number in which denial was overturned either in whole or in part, whether the U.S. Section denied an individual access to his or her records in a system of record on any basis other than a Privacy Act exemption under 5 U.S.C. 552(j) or (k), and the legal justification for the denial, number of instances in which individuals litigated the results of appeals of access or amendment, and the results of such litigation, and a statement of our involvement in matching programs;

(4) Any other information which will indicate the U.S. Section's effort to comply with the objectives of the Act, to include any problems encountered, with recommendations for solving thereof;

(5) And, a copy of these regulations.

## PART 1102—FREEDOM OF INFORMATION ACT

Sec.

1102.1 Purpose.

1102.2 Definitions.